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June 7, 2024

Via ECF

The Honorable Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square, Room 240
New York, NY 10007

Re: Cheyne Capital US, LP v. Medical Properties Trust, Inc.,
1:24-mc-218 (VEC) – Letter Motion to Seal and Redact
Documents

Dear Judge Caproni:

Pursuant to Section 5.B.ii of the Court's Individual Practices, Respondent Medical Properties Trust, Inc. ("MPT") files this letter motion to seal and redact documents.

In connection with its opposition to Petitioner Cheyne Capital US, LP's motion to quash, Dkt. 4, MPT will file two documents produced by defendants in the underlying defamation action pending in the U.S. District Court for the Northern District of Alabama, captioned *Medical Properties Trust, Inc. v. Viceroy Research LLC, et al.*, No. 2:23-cv-00408 (N.D. Ala.). The subpoena at issue on Cheyne's motion was issued by MPT in connection with

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the Alabama action. The two documents—a non-public agreement between Cheyne and Viceroy and an email exchange between Cheyne personnel and one of Viceroy’s members—are Exhibits 2 and 4 to the Declaration of Nathaniel Cullerton in support of MPT’s opposition to the motion to quash (the “Cullerton Declaration”). MPT’s opposition brief will reference these two documents, as will Exhibit 24 to the Cullerton Declaration.

Generally, documents filed in judicial proceedings are afforded a rebuttable presumption of public access. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). Here, however, Exhibits 2 and 4 have been designated confidential by the Viceroy defendants under the Protective Order governing the Alabama action. *Med. Props. Tr., Inc. v. Viceroy Rsch. LLC*, No. 2:23-cv-00408, Dkt. 72 (N.D. Ala. Nov. 16, 2023). MPT has conferred with counsel for the Viceroy defendants, who authorized MPT to disclose these documents to Cheyne and to this Court for the limited purpose of litigating Cheyne’s motion. The Viceroy defendants have requested, however, that MPT move to file the documents under seal. Cheyne Capital US, LP has informed MPT that it “takes no position” on the sealing request.

Accordingly, at the request of the Viceroy defendants, MPT respectfully requests that the Court seal Exhibits 2 and 4 to the Cullerton Declaration and permit the redaction of portions of Exhibit 24 and MPT’s opposition brief that refer to the non-public contents of Exhibits 2 and 4.

Respectfully submitted,



Nathaniel Cullerton

Application GRANTED. The need to protect information that has been designated confidential under a protective order in a separate action is a countervailing interest that outweighs the presumption of access to judicial documents set forth in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 124 (2d Cir. 2006) and justifies sealing Exhibits 2 and 4 to the Cullerton Declaration and the narrowly tailored redactions in the publicly filed Exhibit 24 and MPT's opposition brief. The unredacted versions of Exhibit 24 and MPT's opposition brief at Dkt. 13 may remain under seal.

SO ORDERED.



6/10/24

HON. VALERIE CAPRONI
 UNITED STATES DISTRICT JUDGE